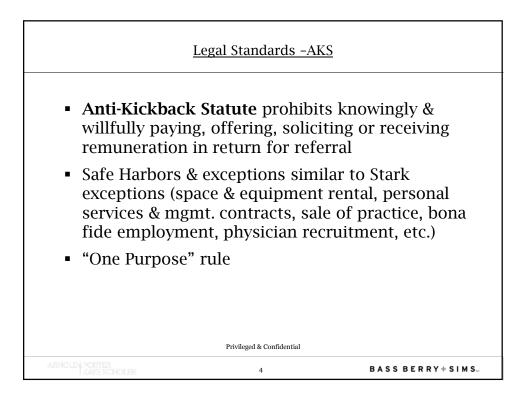


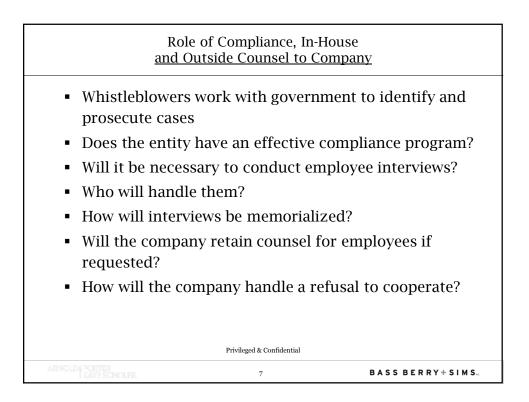
<u>Overview</u>			
 DOJ Direction to target responsible individuals Legal standards Anti-Kickback Statute Stark law False Claims/Statements Role of compliance professionals Employee reports and hotline calls Who needs individual counsel How to investigate allegations of fraud and abuse Documents Witnesses Reporting results 			
Privileged & Confidential			
ARNOLD; PORTER I KAYE SCHOLER	2	BASS BERRY+SIMS.	

	Direction to Targe Deputy Attorney Ge	-	
The Dapity Alkering General	U.S. Department of Justice Office of the Deputy Assemp General Materia, 65:2020 Sopredistry 9, 2023	• In rece pro	tes Memo direction is not new. Civil FCA investigations, companies ive no credit for cooperation without <i>i</i> ding "all relevant facts relating to" onsible individuals.
MEMORANDUM FOR THE ASSISTANT ATTORNEY GENERAL ANTITUST DIVISION THE ASSISTANT ATTORNEY GENERAL CIVIL DIVISION THE ASSISTANT ATTORNEY GENERAL CIVIL DIVISION THE ASSISTANT ATTORNEY GENERAL ENVIRONMENT AND NATURAL RESISTANT ATTORNEY GENERAL ENVIRONMENT AND NATURAL RESISTANT ATTORNEY GENERAL ENVIRONMENT AND		• In issu	FCA practice, DOJ refuses to identify es and individuals of interest during al meetings.
SECURITY DIVISIO THE ASSISTANT ATTOR THE DIRECTOR, FEDERA	THE ASSISTANT ATTORNEY GENERAL, NATIONAL SECURITY DIVISION THE ASSISTANT ATTORNEY GENERAL, TAX DIVISION THE DIRECTOR, FEDERAL BURGAU OF INVESTIGATION THE DIRECTOR, EXECUTIVE OFFICE FOR UNTED STATES		volve counsel early in process to outlin l standards and issues.
FROM:	TRUSTEES ALL UNITED STATES ATTORNEYS Sally Quilling Yates		termine if allegations are sufficiently bus to merit retaining outside counsel:
SUBJECT:	Individual Accountability for Corporate Wrongdoing		 Criminal
Fighting corporate fixed and other misconduct is a top priority of the Department of Justice. Our nation's economy depends on effective enforcement of the eVisit and estimate laws that protect one financial systems and, by extension, all or eVisitors. These are principal on the Department lines and brenders—an evidenced by the many attorneys, agents, and support still who have new deficiency on experiment investigations, particular to the advertee of the eVisitor.			Civil
			 Administrative/Overpayment
financial crisis. One of the most effective ways to combat corporate misconduct is by stoking accountability from the individuals who prepretend the wronghoing. Such accountability is important for exercit reasons: it determines that integrated accounts in corporate	the individuals who perpetrated the wrongdoing. Such accountability is I reasons: it deters future illegal activity, it incentivizes changes in corporate		aling with costs, requests for vidual counsel
behavior, it ensures that the proper parties are held responsible for their actions, and it promotes the public's confidence in our justice system.		• Co CIA	mplications of settlement including
	Privile	eged & Confident	al
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<u>Legal Standards – Stark Law</u>				
 Stark law: If physician (or immediate family member) has financial relationship with entity (e.g. hospital), physician may <u>not</u> make referral to entity for designated health service ("DHS") and entity may <u>not</u> submit claims for such services. 				
 "Designated Health Services" = Lab services, therapy services, radiology/imaging, DME, prosthetics & orthotics, home health services, outpatient Rx drugs, inpatient & outpatient hospital services. 				
• "Financial relationship" under Stark? Any ownership or investment interest; Any compensation arrangement (defined as "any arrangement involving any remuneration between a physician (or an immediate family member of such physician) and an entity" with certain very limited exceptions				
 "Referral" is defined very broadly, and includes: A request for, or ordering of, DHS; Establishment of a plan of care, etc. 				
 Safe Harbors and Exceptions: Rental of office space & equipment, Bona fide employment, Personal service arrangements, Physician recruitment, Isolated Transactions, Remuneration unrelated to DHS, etc. 				
ARNOLD: PORTER LAY SCHOLER 5 BASS BERRY+SIMS.				

Legal Standards - FCA			
False Claims A	. ,	0 0	
		sing to be presented, payment or approval	
 Knowingly making, using, or causing to be made or used, a false record or statement material to a false or fraudulent claim 			
improperly a	oncealing or know woiding or decre mit money or pro	asing an obligation to	
Retention of overpayment			
• 60-day ru	le		
 Qui tam actions 	6		
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<u>Investigation</u>			
Take every compli	ant and allegation s	eriously.	
• What are the issue	• What are the issues?		
What is the applicable legal standard?			
 Who at company/entity decides whether compliance will conduct initial investigation? 			
What are the risks of compliance acting without direction of counsel?			
 Making yourself a witness/accomplice/co-conspirator. 			
 Cost of outside counsel vs. cost of foregoing outside counsel. 			
 Pitfalls: waived privileges, binding admissions, payment suspension, loss of licenses or privileges, penalties, imprisonment, and government-wide exclusion. 			
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	Questions	
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	(,	
	Anna Grizzle	
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